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CV 03-1214 #1

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OF WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CURAFLO TECHNOLOGIES INC, a British Columbia company,

Plaintiff,

٧

ACE DURAFLO SYSTEMS, LLC, a Nevada limited liability company,

Defendant

GV03-1214 COMPLAINT

Plaintiff, CuraFlo Technologies Inc ("CuraFlo"), for its complaint against Defendant, Ace DuraFlo Systems, LLC ("Ace"), states and alleges as follows

## JURISDICTION AND VENUE

This is an action for declaratory judgment under 28 U S C § 2201 CuraFlo seeks a declaratory judgment that neither it nor it licensees infringe Ace's trademarks. This Court has subject matter jurisdiction pursuant to 28 U S C §§ 1338(a) and 2201. Venue is proper in this district under 28 U S C § 1391(b).

## **PARTIES**

2 CuraFlo is a British Columbia corporation having its principal office at 202 – 6200 Darnley Street, Burnaby, British Columbia V5B 3B1.

CHRISTENSEN
O'CONNOR
JOHNSON
KINDNESSEL

LAW OFFICES 1420 Fifth Avenue Suite 2800 Seattle WA 98101 2347 TELEPHONE 206 682 8100

1	3 Upon information and belief, Ace is a Nevada limited liability company with					
2	its principal place of business at 711 Kimberly Avenue, Suite 100, Placentia,					
3	California 92870 Ace has sufficient contacts within this district to subject it to the personal					
4	jurisdiction of the Court					
5	FACTUAL BACKGROUND					
6	4 CuraFlo is engaged in the business of cleaning and repairing piping systems					
7	5 Ace is engaged in the business of cleaning and repairing piping systems					
8	6 On information and belief, Ace is the licensee and/or owner of the US					
9	Trademark Registration No 2,484,383, for the mark ACE DURAFLO					
10	7 Ace claims common law rights in the mark DURAFLO					
11	8 On April 24, 2003 and on other occasions, Ace, through its counsel, has sent					
12	CuraFlo's licensee and counsel correspondence alleging that CuraFlo's use of its mark					
13	CURAFLO infringes Ace's ACE DURAFLO and DURAFLO marks Ace has further					
14	demanded that CURAFLO "immediately terminate any and all uses of the mark CURAFLO					
15	or any similar marks "					
16	COUNT I					
17	TRADEMARK NONINFRINGEMENT (Lanham Act)					
18	9 Plaintiff realleges each and every allegation set forth in paragraphs 1-8 above					
19	as if fully set forth herein					
20	10 Ace has asserted and continues to assert that CURAFLO infringes the ACE					
21	DURAFLO and DURAFLO trademarks.					
22	There is an actual case or controversy between CuraFlo and Ace concerning					
23	the alleged infringement of Ace's trademarks in that Ace, through its counsel, has accused					
24	CuraFlo of infringing the trademarks					
25	12 Ace's allegations of trademark infringement are without merit					
25 26						

1420 Fifth Avenue Suite 2800 Seattle WA 98101-2347 TFLEPHONE 206 682 8100

Pursuant to 28 U S C §§ 2201 and 1338(a), CuraFlo is entitled to a judgment declaring that it does not infringe any trademark held by Ace

## COUNT II REGISTRATION IMPROPERLY REGISTERED

- Plaintiff realleges each and every allegation set forth in paragraphs 1-13 above as if fully set forth herein
- US Trademark Registration No 2,484,383 was improperly issued by the Patent and Trademark Office
- Pursuant to 15 U S C § 1119, CuraFlo is entitled to an order directing the Commissioner of Patents and Trademarks to cancel the registration of Ace's U S Trademark Registration No 2,484,383

WHEREFORE, Plaintiff CuraFlo respectfully requests the following relief

- A Judgment declaring that CuraFlo does not infringe the ACE DURAFLO, DURAFLO, or any related marks held by Ace,
- B An order under 15 U S C § 1119 to the Commissioner of Patents and Trademarks canceling the registration of Ace's U S Trademark Registration No 2,484,383,
  - C An award to CuraFlo of its costs and reasonable attorneys' fees, and
- D An award to CuraFlo of such other and further relief as the Court may deem just and proper

Dated this 30 day of May, 2003

CHRISTENSEN O'CONNOR JOHNSON KINDNESSPLLC

Gregory F Wesner, WSBA No 30,241

Thomas M Donahue, Jr, WSBA No 23,313

Attorneys for Plaintiff
CURAFLO TECHNOLOGIES INC

RECEIPT #\_

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\_ APPLYING IFP\_

JUDGE\_

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## Case 2:03-cv-01214-JLR Document 1 Filed 05/30/03 Page 4 of 4 CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Court for the purpose of initiating the civil docket sheet.

	rpose of initiating the civ	ul docket sh					,
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(b) COUNTY OF RESIDEN	sh Columbi	county of I	COUNTY OF SILES TO THE TOTAL TED DEFENDANT				
(c) ATTORNEYS (FIRM NA	BER)	ATTORNEYS (I	ATTORNEYS (IF KNOWN)				
Gregory F We							
Thomas M Do			LUDGE	D- PENERS			
Christensen O'	PLLC		MAV	3 a -			
1420 Fifth Ave			MAY 3 0 2003 MR				
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Defendant	(Indicate Citizenship o	of Parties	State		<b>_</b>	Place of Business	
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